



Appeal Decision

Site visit made on 30 July 2024

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 August 2024

Appeal Ref: APP/F0114/W/24/3344298

Masons Cottage, 281 Bloomfield Road, Bloomfield, Bath BA2 2NU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Duncan Lawrence of The Architecture Practice against Bath and North East Somerset Council.
 - The application Ref is 23/04419/FUL.
 - The development proposed is construction of a new dwelling on land adjoining an existing dwelling.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Background and Main Issues

2. The appeal results from the failure of the Council to determine the application within the prescribed period. Therefore, there is no formal decision notice. However, the Council's Statement of Case sets out the reasons why planning permission would have been refused, had it been empowered to do so.
3. The main issues are:
 - the effect of the proposal on the character and appearance of the Bath Conservation Area (CA), and Bath World Heritage Sites, within which the site sits,
 - whether the proposal would make adequate provision for Biodiversity Net Gain, and
 - the effect of the proposal on the living conditions of the occupiers of 281 Bloomfield Road (No. 281) with regard to light, outlook and outdoor space.

Reasons

Character and Appearance

4. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. This covers much of the City of Bath and so has a broad and varied character. The area around the appeal site is characterised by clusters of dwellings with open spaces between them. Relevant to the appeal, the significance of the CA is its historic and attractive buildings, street scenes and spaces.

5. The appeal site consists of the side garden of No. 281, a two-storey stone semi-detached dwelling. The area around the appeal site was historically quarried and includes a small complex of modest cottages originally for masons and quarrymen. Dwellings hereabouts now have varied designs and No. 281 has been internally altered and divided since it was built, to form 279 Bloomfield Road. Nevertheless, it has an attractive appearance, reflecting its quarrying history and is one of relatively few remaining examples of workers' cottages locally. It therefore constitutes a non-designated heritage asset.
6. The principal garden area of No. 281 is to the side, and forms part of its setting. The garden was until recently at a raised level due to the hillside topography. There was also a stone wall on the frontage boundary, which provided cohesiveness with the similar walls of other properties nearby. However, the wall has been removed, and the side garden lowered and levelled. Even so, the garden area provides distinctiveness and spaciousness to the property and the wider area and so makes a positive contribution to the CA.
7. The proposal is for a dwelling within the side garden, with a new parking and landscaped area. It would use similar external materials on its front and is intended to appear as an extension to No. 281. The dwelling would have matching ridge and eaves lines to its host. A section of boundary wall would be re-built along the site frontage.
8. However, the lower site levels of the proposal would not reflect the rising gradient of the road and nearby dwellings. Moreover, it would infill much of the side garden area with built form of appreciable size. In the context of the site, the proposal would appear cramped and out of place, diminishing the spaciousness provided by the existing garden. Similarly, it would erode the setting and appearance of the cottage, undermining its significance as a non-designated heritage asset.
9. The reinstated wall would have a gap to form an access driveway with a splayed entrance, to provide highway visibility. The gap would be somewhat wider than the previous entrance, thus undermining the cohesiveness of the frontage walling. Furthermore, the proposed splay would appear modern and out of place. Any increase in the width of the gap, to potentially avoid the need for the splay, would only further undermine the continuity of the wall.
10. For the reasons given above, the proposal would have a harmful effect on the character and appearance of the area, including the CA as a whole and the non-designated heritage asset. It would similarly conflict with the outstanding universal values of the World Heritage Sites, which include the attractive, hilly setting of the City.
11. As such, the proposal would conflict with Policy CP6 of the Core Strategy (CS), adopted July 2014, Policy NE2A of the Placemaking Plan (PMP), adopted July 2017, and Policy NE2 of the Local Plan Partial Update (LPPU), adopted January 2023. These require that the character, appearance and landscape setting of Bath is conserved. Similarly, the proposal would not accord with the aims of PMP Policy HE1, CS Policy B4 and the City of Bath World Heritage Site (WHS) Setting Supplementary Planning Document, adopted August 2021, which seek to preserve the character or appearance of the CA and avoid harm to the WHS and its setting.

12. I give great weight to the preservation of designated heritage assets as required by the National Planning Policy Framework (the Framework). In the language of the Framework, the harm to them would be less than substantial. Accordingly, and in accordance with PMP Policy HE1 and CS policy B4, I will weigh the harm to the heritage assets against the public benefits of the proposal below.

Biodiversity Net Gain

13. LPPU Policy NE3A requires minor developments to result in no net loss and an appropriate net gain of biodiversity, to be secured through the small sites metric or agreed equivalent. At the time of submission of the appeal application, the site had been cleared of much of its vegetation. On this basis, the Biodiversity Net Gain Report had assumed a zero baseline and concluded that the proposed garden, planting and other ecological benefits would result in net gains.
14. However, in circumstances where biodiversity loss has occurred prior to submission, the baseline in fact dates from January 2020. The Planning Practice Guidance¹ makes clear that this is to discourage the deliberate degradation of existing on-site habitats to reduce the pre-development biodiversity value. It is common ground that an updated, agreed metric is necessary, to reflect the correct baseline.
15. It follows that insufficient evidence is before me in respect of this issue. As such, I cannot conclude that the proposal would make adequate provision for Biodiversity Net Gain, or that any condition requiring this would be met. As a result, the proposal would conflict with LPPU Policy NE3A and the similar aims of the Framework. I therefore give this conflict substantial negative weight.

Living Conditions

16. As part of the proposal, No. 281 would retain gardens to the front and side of the property, and a rear courtyard. Not all occupiers may want a large garden, but only a small amount of space would be provided as proposed. Furthermore, the areas to the side and rear would be significantly enclosed by the tall walls, boundary treatments and vegetation of adjacent land. Although single storey at the rear, the walls of the proposal would also enclose this area. As a result, No. 281 would have only a poor amount and quality of outside amenity space, with little light or outlook.
17. No. 281 has windows to its side and rear, serving a ground floor living area. The proposal would result in a long high wall being built close to and directly in front of the side window. The rear patio doors and windows would continue to provide light and outlook to the living area from the courtyard, but I have already found that this is constrained. Consequently, occupiers using the living area would have limited light and an oppressive outlook, dominated by the proposal, making the area a less pleasant place to reside.
18. For these reasons, the proposal would have a harmful effect on the living conditions of the occupiers of No. 281 with regard to light, outlook and outdoor space. It would therefore conflict with PMP Policy D6, which requires appropriate levels of amenity including outlook and natural light, and adequate

¹ Paragraph: 012 Reference ID: 74-012-20240214

and usable private amenity space. For the same reasons, it would conflict with the aim of the Framework for a high standard of amenity for future users. Accordingly, I give this conflict significant weight.

Planning Balance and Conclusion

19. In accordance with the Framework, the less-than-substantial harm to the designated heritage assets must be weighed against the public benefits of the proposal. It would positively contribute a modest unit to the supply of housing in the area. However, being for a single dwelling, this contribution would be small. I therefore give this benefit only limited weight.
20. I have noted the representations of support for the proposal. It would have economic benefits, for example to local businesses and the building industry, whilst future occupiers would make positive social and financial contributions to the area. The proposal would be built to high environmental standards and could be delivered quickly. Nevertheless, I give these benefits only limited weight because of the modest size of the proposal.
21. As such, the public benefits of the proposal are not sufficient to outweigh the less-than-substantial harm to the designated heritage assets. Accordingly, the proposal would also conflict with PMP Policy HE1, and CS policy B4, when each policy is read as a whole. Nor would these benefits outweigh the overall harm resulting from the proposal identified above.
22. For the reasons given, I have found conflict with the Development Plan, read in the round. The material considerations in this case, including the Framework, do not indicate a decision other than in accordance with the Development Plan. This leads me to conclude that the appeal should be dismissed, and planning permission refused.

O Marigold

INSPECTOR